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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130403322-4454-02]

RIN 0648-XE017

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Re-opening of Commercial Sector for Atlantic Dolphin**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; re-opening.

SUMMARY: NMFS announces the re-opening of the commercial sector for Atlantic dolphin (dolphin) in the exclusive economic zone (EEZ) off the Atlantic states (Maine through the east coast of Florida) through this temporary rule. The most recent landings for dolphin indicate the commercial annual catch limit (ACL) has not yet been reached. Therefore, NMFS re-opens the commercial sector for dolphin at 4:15 p.m., local time, June 24, 2015, and it will close at 12:01 a.m., local time, June 30, 2015 in the exclusive economic zone (EEZ) of the Atlantic. A June 30, 2015, closure will minimize the risk of the commercial

ACL being exceeded and provides more sufficient notice to fishermen of the closure.

DATES: This rule is effective at 4:15 p.m., local time, June 24, 2015, until 12:01 a.m., local time, June 30, 2015.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, NMFS Southeast Regional Office, telephone: 727-824-5305, e-mail: *catherine.hayslip@noaa.gov*.

SUPPLEMENTARY INFORMATION: The dolphin and wahoo fishery off the Atlantic states is managed under the Fishery Management Plan for the Dolphin and Wahoo Fishery of the Atlantic (FMP). The FMP was prepared by the South Atlantic Fishery Management Council, in cooperation with the Mid-Atlantic and New England Fishery Management Councils, and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The commercial ACL for dolphin is 1,157,001 lb (524,807 kg), round weight. Under 50 CFR 622.280(a)(1)(i), NMFS is required to close the commercial sector for dolphin when the commercial ACL has been reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS previously determined that the commercial ACL would be reached and that the commercial sector

for dolphin should close on June 24, 2015. Therefore, NMFS published a temporary rule to implement accountability measures (AMs) to close the commercial sector for dolphin in the EEZ off the Atlantic states (Maine through the east coast of Florida), effective at 12:01 a.m., local time, June 24, 2015 (80 FR 36249, June 24, 2015).

However, the most recent landings for dolphin indicate the commercial ACL has not been reached. Consequently and in accordance with 50 CFR 622.8(c), NMFS temporarily re-opens the commercial sector for dolphin on June 24, 2015, and closes the commercial sector on June 30, 2015. A closure on June 30, 2015, minimizes the risk of the commercial ACL for dolphin from being exceeded and provides sufficient notice to fishermen of the closure.

The operator of a vessel with a valid commercial vessel permit for dolphin on board must have landed and bartered, traded, or sold such species prior to the closure at 12:01 a.m., local time, June 30, 2015. During the closure, the bag and possession limits specified in 50 CFR 622.277(a)(1) apply to all harvest or possession of dolphin in or from the Atlantic EEZ. Additionally, these bag and possession limits apply in the Atlantic EEZ (Maine through the east coast of Florida) on board a vessel for which a valid Federal commercial or charter

vessel/headboat permit for dolphin and wahoo has been issued, without regard to where such species were harvested, *i.e.*, in state or Federal waters. During the closure, the sale or purchase of dolphin taken from the EEZ is prohibited. The commercial sector for dolphin will re-open on January 1, 2016, the beginning of the 2016 commercial fishing season.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of dolphin off the Atlantic states and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.8(c) and 622.280(a)(1)(i) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement this action to temporarily re-open the commercial sector for dolphin constitutes good cause to waive the requirements to provide

prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b) (B), as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing the commercial ACL and AMs has been subject to notice and comment, and all that remains is to notify the public of the re-opening. Such procedures are contrary to the public interest because of the need to immediately implement this action to allow vessels with dolphin to transit safely and land dolphin harvested in the EEZ by June 30, 2015, while minimizing the risk of exceeding the commercial ACL. Prior notice and opportunity for public comment would require time, would delay the re-opening of the commercial sector, and would potentially result in the discard of dolphin already harvested legally prior to June 24, 2015.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d) (3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 24, 2015

Jennifer M. Wallace,
Acting Director,

Office of Sustainable Fisheries,
National Marine Fisheries Service.

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